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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2008-309

12 ROBERT WILLIAM MOORE

56599 Kismet Drive

13 Yucca Valley, CA 92284

A C C U S A T I O N

14 Registered Nurse License No. 538110

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. On or about October 27, 1997, the Board of Registered Nursing issued
23 Registered Nurse License No. 538110 to Robert William Moore (Respondent). The Registered
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on September 30, 2009, unless renewed.

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1 “(b) Use any controlled substance as defined in Division 10 (commencing with
2 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
3 defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or
4 injurious to himself or herself, any other person, or the public or to the extent that such use
5 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
6 license.”

7 “(c) Be convicted of a criminal offense involving the prescription, consumption,
8 or self-administration of any of the substances described in subdivisions (a) and (b) of this
9 section, or the possession of, or falsification of a record pertaining to, the substances described in
10 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
11 thereof.”

12 8. Section 490 of the Code states:

13 “A board may suspend or revoke a license on the ground that the licensee has
14 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
15 duties of the business or profession for which the license was issued. A conviction within the
16 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
17 contendere. Any action which a board is permitted to take following the establishment of a
18 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
19 been affirmed on appeal, or when an order granting probation is made suspending the imposition
20 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
21 Penal Code.”

22 9. Section 492 of the Code states:

23 “Notwithstanding any other provision of law, successful completion of any
24 diversion program under the Penal Code, or successful completion of an alcohol and drug
25 program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of
26 the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with

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1 Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary
2 action against a licensee or from denying a license for professional misconduct, notwithstanding
3 that evidence of that misconduct may be recorded in a record pertaining to an arrest.”

4 10. California Code of Regulations, title 16, section 1444, states:

5 “A conviction or act shall be considered to be substantially related to the
6 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
7 present or potential unfitness of a registered nurse to practice in a manner consistent with the
8 public health, safety, or welfare.”

9 11. Section 125.3 of the Code provides, in pertinent part, that the Board may
10 request the administrative law judge to direct a licentiate found to have committed a violation or
11 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
12 and enforcement of the case.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Conviction of a Substantially Related Crimes)**

15 12. Respondent has subjected his license to disciplinary action under section
16 2761, subdivision (f), section 2762, subdivision (c) in conjunction with section 490 as defined in
17 California Code of Regulations, title 16, section 1444, on the grounds of unprofessional conduct
18 in that Respondent was convicted of a substantially related crimes. The circumstances are as
19 follows:

20 A. On or about April 5, 2007, Respondent was convicted by the Court
21 on a plea of guilty of violating Vehicle Code sections 23152(a) (driving under the influence),
22 and 23152(b) (driving with a blood alcohol of 0.08 percent), misdemeanors, in the Superior
23 Court of the State of California, County of San Bernardino, Joshua Tree District, Case No.
24 TMB70052, entitled *The People of the State of California v. Robert William Moore*.

25 B. The circumstances surrounding the conviction are that on or about
26 February 8, 2007, officers from the California Highway Patrol made a routine traffic stop of
27 Respondent’s vehicle. When the officer approached Respondent’s vehicle, he detected a strong
28 odor of alcohol. Respondent’s speech was slurred.

1 C. On or about March 26, 2007, Respondent was convicted by the
2 Court on a plea of guilty of violating Penal Code section 647(f) (public intoxication),
3 misdemeanor, in the Superior Court of the State of California, County of San Bernardino, Joshua
4 Tree District, Case No. MMB70028, entitled *The People of the State of California v. Robert*
5 *William Moore*.

6 D. The circumstances surrounding the conviction are that on or about
7 January 20, 2007, officers from the San Bernardino Sheriff's Department went to Respondent's
8 home. Respondent was intoxicated and angry and in risk of driving his vehicle.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Abuse of Alcohol)**

11 13. Respondent is subject to disciplinary action under section 2762,
12 subdivision (b) on the grounds of unprofessional conduct in that Respondent abused alcohol as
13 more fully set forth in paragraph 12, above.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein
16 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

17 1. Revoking or suspending Registered Nurse License No. 538110, issued to
18 Robert William Moore.

19 2. Ordering Robert William Moore to pay the Board of Registered Nursing
20 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
21 Professions Code section 125.3;

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DATED: June 27, 2008

Ruth Ann Terry by Gloria
RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant